

Senate File 367 - Reprinted

SENATE FILE 367

BY COMMITTEE ON WAYS AND MEANS

(SUCCESSOR TO SSB 1146)

(As Amended and Passed by the Senate February 23, 2021)

A BILL FOR

1 An Act relating to certain financial obligations, including
2 under the consumer credit code, and including under the
3 criminal and juvenile justice system by modifying criminal
4 and civil surcharges, fines, fees, costs, and court debt,
5 providing civil penalties, and including effective date and
6 retroactive applicability provisions.
7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 537.1301, subsection 12, Code 2021, is
2 amended to read as follows:

3 12. "*Consumer credit transaction*" means a consumer credit
4 sale or consumer loan, or a refinancing or consolidation
5 thereof, or a consumer lease, or a consumer rental purchase
6 agreement. "*Consumer credit transaction*" does not include
7 goods, services, or any other benefits provided by or on behalf
8 of the state or a state agency.

9 Sec. 2. Section 602.8105, subsection 2, paragraph h, Code
10 2021, is amended to read as follows:

11 h. For applicable convictions under section 692A.110 prior
12 ~~to July 1, 2009, a civil penalty of two hundred ten dollars,~~
13 ~~and for applicable convictions under section 692A.110~~ on or
14 after July 1, 2009 June 25, 2020, a civil penalty of two
15 hundred sixty dollars.

16 Sec. 3. Section 602.8107, subsection 1, paragraph a, Code
17 2021, is amended to read as follows:

18 a. "*Court debt*" means all restitution as defined in section
19 910.1, fees, and forfeited bail, and other debt paid to or
20 collected by the clerk of the district court.

21 Sec. 4. Section 602.8107, subsection 3, Code 2021, is
22 amended to read as follows:

23 3. *Collection by department of revenue.*

24 a. ~~(1)~~ Thirty days after court debt has been assessed
25 and full payment has not been received, or if an installment
26 payment is not received within thirty days after the date it is
27 due, the judicial branch shall assign a case to the department
28 of revenue, unless the case has been assigned to the county
29 attorney under paragraph ~~"e"~~ "d".

30 ~~(2) The department of revenue may impose a fee established~~
31 ~~by rule to reflect the cost of processing which shall be added~~
32 ~~to the debt owed to the clerk of the district court.~~

33 b. (1) ~~In addition, court debt which is being collected~~
34 ~~under an installment agreement pursuant to section 321.210B~~
35 ~~which is in default that remains delinquent shall remain~~

~~1 assigned to the department of revenue if the installment~~
~~2 agreement was executed with the department of revenue; or~~
~~3 to the county attorney or county attorney's designee if the~~
~~4 installment agreement was executed with the county attorney~~
~~5 or county attorney's designee~~ The department of revenue shall
6 receive fifteen percent of each court debt payment collected on
7 cases assigned to the department of revenue for collection to
8 reflect the cost of processing and the remaining eighty-five
9 percent of such court debt collected shall be paid to the
10 clerk of the district court for distribution under section
11 602.8108. The department of revenue collection fee shall not
12 include the amount of court debt collected for restitution
13 involving pecuniary damages, the victim compensation fund, the
14 crime services surcharge, the domestic and sexual abuse crimes
15 surcharge, the agricultural surcharge, the sex offender civil
16 penalty.

17 (2) Payments made by a person under subparagraph (1)
18 between January 1, 2021, and August 1, 2021, including any
19 portion of the payment applied to the department of revenue's
20 processing fee, shall be reapplied as if no department of
21 revenue processing fee had been added to the amount owed. The
22 department of revenue shall be allocated a portion of such
23 payments pursuant to subparagraph (1). If a payment made by
24 a person owing court debt between January 1, 2021, and August
25 1, 2021, reduces the person's total amount of court debt owed
26 to zero, the clerk of the district court shall issue a refund
27 to the person in the amount attributable to the processing fee
28 added to the court debt. This subparagraph is repealed on
29 January 1, 2023.

30 c. The centralized debt collection facilities of the
31 department of revenue established pursuant to section 421.17,
32 subsection 27, shall collect court debt assigned to the
33 department of revenue pursuant to this section.

~~34 e.~~ d. Thirty days after court debt has been assessed
35 and full payment has not been received, or if an installment

1 payment is not received within thirty days after the date it
 2 is due, and if a county attorney has filed with the clerk
 3 of the district court a notice of full commitment to collect
 4 delinquent court debt pursuant to subsection 4, the case shall
 5 be assigned to the county attorney as provided in subsection 4.
 6 The judicial branch shall assign cases with delinquent court
 7 debt to a county attorney in the same format and with the same
 8 frequency as cases with delinquent court debt are assigned to
 9 the department of revenue under paragraph "a", and a county
 10 attorney shall not be required to file an individual notice
 11 of full commitment to collect delinquent court debt for each
 12 assigned case. If the county attorney or the county attorney's
 13 designee, while collecting delinquent court debt pursuant to
 14 subsection 4, determines that a person owes additional court
 15 debt for which a case has not been assigned by the judicial
 16 branch, the county attorney or the county attorney's designee
 17 shall notify the clerk of the district court of the appropriate
 18 case numbers and the judicial branch shall assign these cases
 19 to the county attorney for collection if the additional court
 20 debt is delinquent.

21 Sec. 5. Section 602.8107, subsection 4, paragraph a, Code
 22 2021, is amended to read as follows:

23 a. This subsection does not apply to amounts collected
 24 for restitution involving pecuniary damages, the victim
 25 compensation fund, the crime services surcharge, ~~sex offender~~
 26 ~~civil penalty~~, the domestic and sexual abuse crimes surcharge,
 27 the agricultural theft surcharge, or amounts collected as a
 28 result of procedures initiated under subsection 5 the sex
 29 offender civil penalty, or under section 8A.504.

30 Sec. 6. Section 602.8107, subsection 5, Code 2021, is
 31 amended by striking the subsection and inserting in lieu
 32 thereof the following:

33 5. *Uncollectible debt.*

34 a. Court debt that has been assigned to the department of
 35 revenue for collection pursuant to subsection 3 may be charged

1 off from active collection by the director of the department of
2 revenue if either of the following conditions exist:

3 (1) The person owing the court debt is deceased and there
4 are no assets in the person's estate or there are no assets
5 available for the payment of court debt under section 633.425.

6 (2) The person owing the court debt cannot be located
7 after diligent inquiry and the director of the department of
8 revenue determines the department will not be able to locate
9 the person.

10 b. Court debt for any of the following shall not be charged
11 off until sixty-five years from the date of imposition:

12 (1) Pecuniary damages.

13 (2) Victim compensation.

14 (3) A criminal penalty surcharge.

15 (4) A sex offender civil penalty.

16 (5) A drug abuse resistance education surcharge.

17 (6) A law enforcement initiative surcharge.

18 (7) A county enforcement surcharge.

19 (8) Fees charged pursuant to section 356.7.

20 (9) A crime services surcharge.

21 (10) A domestic and sexual abuse crimes surcharge.

22 (11) An agricultural theft surcharge.

23 c. Debt that is charged off shall remain due and owing, but
24 the judicial branch shall close the corresponding case file for
25 the purposes of collection pursuant to this section.

26 Sec. 7. Section 692A.110, subsection 2, Code 2021, is
27 amended to read as follows:

28 2. In addition to any other penalty, at the time of
29 conviction for a public offense committed on or after July 1,
30 1995, which requires a sex offender to register under this
31 chapter, the offender shall be assessed a civil penalty of ~~two~~
32 ~~hundred dollars, to be payable to the clerk of the district~~
33 ~~court as provided in section 602.8105 and distributed as~~
34 ~~provided in section 602.8108. With respect to a conviction~~
35 ~~for a public offense committed on or after July 1, 2009, which~~

1 ~~requires a sex offender to register under this chapter, the~~
2 ~~offender shall be assessed a civil penalty of two hundred fifty~~
3 ~~dollars,~~ payable to the clerk of the district court as provided
4 in [section 602.8105](#) and distributed as provided in section
5 602.8108.

6 Sec. 8. Section 910.3, subsection 8, Code 2021, is amended
7 to read as follows:

8 8. The court shall enter a permanent restitution order
9 setting out the amount of restitution including the amount of
10 public service to be performed as restitution and the persons
11 to whom restitution must be paid. A permanent restitution
12 order entered at the time of sentencing is part of the final
13 judgment of sentence as defined in [section 814.6](#) and shall
14 be considered in a properly perfected appeal. An appellate
15 court shall not review or modify any issue related to a
16 defendant's ability to pay unless the defendant has exhausted
17 the defendant's remedies under section 910.7 and obtained a
18 ruling from the district court prior to the issue being raised
19 in the appellate court.

20 Sec. 9. Section 911.2B, Code 2021, is amended to read as
21 follows:

22 **911.2B Domestic abuse assault, domestic abuse protective**
23 **order contempt, and sexual abuse, stalking, and human trafficking**
24 **crimes surcharge.**

25 1. In addition to any other surcharge, the court shall
26 assess a ~~domestic abuse assault, domestic abuse protective~~
27 ~~order contempt, sexual abuse, stalking, and human trafficking~~
28 ~~victim~~ domestic and sexual abuse crimes surcharge of ninety
29 dollars if an adjudication of guilt or a deferred judgment has
30 been entered for a violation of [section 708.2A](#), [708.11](#), or
31 [710A.2](#), or [chapter 709](#), or if a defendant is held in contempt
32 of court for violating a domestic abuse protective order issued
33 pursuant to [chapter 236](#).

34 2. In the event of multiple offenses, the surcharge shall be
35 imposed for each applicable offense.

1 3. The surcharge shall be remitted by the clerk of court as
2 provided in [section 602.8108, subsection 6](#).

3 Sec. 10. RESCISSION OF ADMINISTRATIVE RULES.

4 1. Contingent upon the enactment of the section of this Act
5 amending section 602.8107, subsection 3, the following Iowa
6 administrative rule is rescinded August 1, 2021:

7 701 Iowa administrative code, rule 155.1.

8 2. As soon as practicable, the Iowa administrative code
9 editor shall remove the language of the Iowa administrative
10 rules referenced in subsection 1 of this section from the Iowa
11 administrative code.

12 Sec. 11. EFFECTIVE DATE.

13 1. The section of this Act amending section 602.8107,
14 subsection 3, takes effect August 1, 2021.

15 2. The section of this Act amending section 602.8105,
16 section 2, paragraph "h", being deemed of immediate importance,
17 takes effect upon enactment.

18 Sec. 12. RETROACTIVE APPLICABILITY. The following applies
19 retroactively to July 15, 2020:

20 The section of this Act amending section 602.8105,
21 subsection 2, paragraph "h".